



**ZACHARY W. CARTER**  
*Corporation Counsel*

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NY 10007

**ZACHARY RUSSELL BERGMAN**  
*Assistant Corporation Counsel*  
Phone: (212) 356-5051  
Fax: (212) 356-3509  
zbergman@law.nyc.gov

July 20, 2016

**VIA ECF & FASCMILE**

Honorable Paul G. Gardephe  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: Anthony Malik Ellis v. City of New York, et al.,  
16 Civ. 1827 (PGG) (SDNY)

Your Honor:

I am an Assistant Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, representing defendants City of New York, Captain Johnson, Correction Officer Jackson, Correction Officer Johnson and Correction Officer Jones in the above referenced matter. By way of background, the undersigned submitted a Motion to Dismiss pursuant to 28 U.S.C. § 1915(e) on July 15, 2016 on behalf of defendants City, Correction Officer Johnson, and Correction Officer Jones. (Docket Entry No. 17) The motion was not filed on behalf of Captain Johnson and Correction Officer Jackson because this office did not yet represent them at the time of the initial filing. However, this office now represents Captain Johnson and Correction Officer Jackson and, accordingly, the undersigned respectfully states that for the reasons set forth in defendants' Motion to Dismiss, Captain Johnson and Correction Officer Jackson join the motion and respectfully submit that the complaint should be dismissed with prejudice, pursuant to 28 U.S.C. §1915(e) on the grounds that: (1) Plaintiff made bad faith misrepresentations in his *IFP* applications; (2) Plaintiff has accumulated three strikes and therefore should be barred from utilizing *IFP* status; and (3) Plaintiff misrepresented his prior litigation history.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Zachary Russell Bergman  
*Assistant Corporation Counsel*

cc: Anthony Malik Ellis (VIA U.S. MAIL)  
DIN# 16-A-2510  
Downstate Correctional Facility  
121 Red Schoolhouse Road  
P.O. Box 445  
Fishkill, New York 12524